

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ANTHONY BAFFO,	:	
	:	
Plaintiff,	:	
v.	:	No.: 10 Civ. 1245 (LDW)(ETB)
	:	
NEW YORK INSTITUTE OF TECHNOLOGY;	:	
ROBERT RIZZUTO, in his official and	:	
individual capacities; and LEONARD AUBREY,	:	<u>RULE 26(F) DISCOVERY PLAN</u>
in his official and individual capacities	:	
	:	
Defendants.	:	
-----X	:	

In accordance with Rule 26(f) of the Federal Rules of Civil Procedure and this Court's April 6, 2010 Order, the parties have conferred in good faith pursuant to Rule 26(f) and submit the following Rule 26(f) Discovery Plan in advance of the July 28, 2010 Initial Scheduling Conference. Except as otherwise stated herein, the parties agree to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Eastern District of New York. In accordance with the Court's April 6, 2010 Order, the parties have each attached a proposed scheduling order for the Court's consideration. Plaintiff's proposed scheduling order is attached as Exhibit A. Defendants' proposed scheduling order is attached as Exhibit B.

1. **Deadline for Motions to Amend Pleadings:** Plaintiff proposes that the deadline for the parties to file any motions to amend the pleadings or join additional parties should be August 27, 2010. Defendants propose that the deadline for the parties to file any motions to amend the pleadings or join additional parties should be October 27, 2010
2. **Date for Service of Initial Discovery Requests:** The parties agree that the deadline for serving initial document production demands and interrogatory requests should be August 27, 2010. Responses to such requests are due within thirty (30) days.

3. **Deadline for Request to File Motion for Summary Judgment:** Plaintiff proposes that the deadline for any request to file a motion summary judgment be December 10, 2010 (7 days after Plaintiff's proposed deadline to complete fact discovery). Defendants propose that the deadline for any request to file a motion for summary judgment be April 28, 2011 (30 days after Defendants' proposed deadline to complete all discovery).
4. **Date for Submission of the Pre-Trial Order:** Plaintiff proposes that the deadline for submission of the pre-trial order be February 25, 2011 (two weeks after Plaintiff's proposed deadline to complete all discovery). Defendant proposes that the deadline for the submission of the pre-trial order be May 27, 2011 (60 days after Defendants' proposed deadline to complete all discovery).
5. **Discovery Completion Date:**
 - a. Plaintiff proposes the following discovery schedule:
 - i. December 3, 2010: close of fact discovery and deadline for Plaintiff to make disclosures of expert testimony, if any, pursuant to Rule 26(a)(2);
 - ii. January 14, 2011: deadline for Defendants to make disclosures of expert testimony, if any, pursuant to Rule 26(a)(2);
 - iii. February 11, 2011: deadline for completion of expert discovery.
 - b. Defendants propose that the deadline for completion of all discovery, including expert discovery, be March 28, 2011.
6. **Discovery of Electronically Stored Information:** The parties have agreed to work together to produce electronically stored information in appropriate usable formats,

and, upon reasonable request, provide metadata concerning specific electronically stored information.

7. **Agreements Related to Privilege:** The parties do not foresee any issues with respect to privilege. Consistent with the New York Rules of Professional Conduct, the parties agree if either party receives documents that the party knows or reasonably should know is privileged and was inadvertently produced, the receiving party shall promptly notify the sending party of such inadvertent disclosure.

FULBRIGHT & JAWORSKI L.L.P.	THOMPSON WIGDOR & GILLY LLP
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